



# DEP INFORMATION SHEET

## Transfers of Properties with Overboard Discharge Systems

Date: August, 2004

Contact: (207) 287-3901

### What is an OVERBOARD DISCHARGE SYSTEM?

Overboard discharge systems (OBDs) are licensed systems that treat, sanitize and discharge wastewater from homes and businesses to streams, rivers and the ocean. The most common OBD systems are sand filters and mechanical systems. Overboard discharges require licensing and inspections by the Maine Department of Environmental Protection (DEP) and payment of an annual fee.

### How does the State view OBD systems?

Overboard discharge systems are legal if operated and maintained in compliance with the OBD license and the law. However in 1989, the Maine legislature established a program to advance water quality and habitat improvement by removing and replacing as many OBDs as practicable. In 2003, the Legislature enacted new laws to facilitate that effort. These laws, effective September 13, 2003, directly affect people contemplating the purchase, sale, gifting or transfer of properties with OBDs. For simplicity, we will refer to these parties as the buyer and seller.

**How does the presence of an OBD system affect property assessments?** Any of the following may restrict the use, thereby affecting the value of the property:

- ♦ The OBD license has a waste discharge volume limit that restricts the size and number of dwellings connected to the system. By law, we cannot increase the actual or licensed volume or duration of the discharge. Changing from seasonal to year-round use or the addition of cottages, bunkhouses, apartments or bedrooms after 1987 are activities that would result in increased discharges.
- ♦ Properties with seasonally- restricted licenses cannot be used as year-round dwellings.

### What needs to be done when transferring properties served by OBD systems?

- ♦ The seller or his agent must provide a copy of the OBD license and disclose its size/capacity, its seasonal limitations and any other restrictions to the buyer.
- ♦ Before transferring a property with an overboard discharge, the parties to the transfer are required by law to determine if a technologically-feasible alternative to the OBD exists that would meet the Maine State Plumbing Code. The buyer/seller must hire a qualified Licensed Site Evaluator (LSE) who has experience designing replacement systems for OBDs. After a site assessment, the LSE should submit his findings and/or a design for a replacement non-discharging septic system to the DEP for review.
- ♦ If a technologically feasible alternative wastewater disposal system is identified by the site evaluator, and approved by the Local Plumbing Inspector or the Division of Health Engineering, that system must be installed within 90 days of closing, season and weather permitting. Responsibility for the cost of the evaluation and system installation may be negotiated in the contract for purchase/sale of the parcel.
- ♦ If the LSE cannot design a technologically feasible replacement wastewater disposal system then, after the closing and issuance of a deed (or lease), the new owner must apply for a transfer of the license. The DEP may then transfer the OBD license to the new owner.

### Is financial assistance available to replace OBD systems?

- ♦ Property owners may be eligible for reimbursement of a portion of the cost of replacing their OBD under the OBD grant program. Effective September 13, 2003, the Overboard Discharge Removal Grant Program became an income-based grant program, awarding grants according to the following table:

Applicant's income (based on previous year's federal tax return):	Possible OBD removal reimbursement:
Residential OBD. Less than \$25,000 per year taxable income	100 percent
Residential OBD. \$25,001- \$50,000 per year taxable income	90 percent
Residential OBD. \$50,001 - \$75,000 per year taxable income	50 percent
Residential OBD. \$75,001 - \$100,000 per year taxable income	35 percent
Residential OBD. \$100,001 per year or more taxable income	25 percent
Publicly owned OBD.	50 percent (\$150,000 maximum)

- ◆ Properties in targeted shellfish reclamation areas receive top priority for removal grants. Owners of property in these high-priority areas will receive an unsolicited grant offer for the appropriate share of OBD system removal and replacement costs.
- ◆ Owners of properties with OBD systems not on the priority list may apply for reimbursement of the appropriate share of the cost of removal/replacement. Reimbursement is on a first come-first served basis using funds leftover from high priority removals as may be available.
- ◆ The grant program only provides funds for removal and replacement of legally existing licensed discharges.

#### **How can the realtor help? - Realtors generally can:**

- ◆ Provide copies of the current or most recent license and inspection reports for the facility from DEP.
- ◆ Provide names of qualified Licensed Site Evaluators.
- ◆ Get estimates of the annual fees associated with the OBD for the property disclosure. In 2004, the average annual fee for a small system serving a three-bedroom home was approximately \$200/year.
- ◆ Provide potential buyers with DEP contact information to facilitate the transfer of the DEP waste discharge license to their name.

#### **How can the DEP help?**

- ◆ Provide copies of OBD fact sheets for general information.
- ◆ Provide applications for transfer and/or renewal of OBD licenses and assistance in completing the forms.
- ◆ Provide information about specific OBDs, their licenses and restrictions, available grants for OBD replacement, and possible solutions to OBD issues at any time during the sale.

**New discharges of wastewater to waterways including ditches, streams, rivers, ponds and the ocean, that have little or no treatment and that are not licensed by the DEP have been illegal since 1974 and are not “grandfathered” in any way. If the property owner of an unlicensed discharge can provide documentation that a discharge existed legally before 1974 and there is no technologically feasible alternative, the DEP may grant a license for that discharge once appropriate treatment is installed.**

#### **DEP Contact Information**

<b>If you have questions about:</b>	<b>Contact</b>	<b>Telephone</b>	<b>Email</b>
License transfers/renewals, selling a property with an OBD, general program questions	Mike Demarest	(207) 287-6301	<a href="mailto:michael.demarest@Maine.gov">michael.demarest@Maine.gov</a>
OBD system compliance, inspections, or inspection reports	Chris Johnson	(207) 287-7684	<a href="mailto:christopher.p.johnson@Maine.gov">christopher.p.johnson@Maine.gov</a>
OBD removal grant program	Richard Green	(207) 287-7765	<a href="mailto:richard.a.green@Maine.gov">richard.a.green@Maine.gov</a>

To enable us to best serve you, please contact us at the time of listing or as soon as possible thereafter. Please understand that, due to the demands of our workload, we are limited to our ability to respond to requests with immediate deadlines.

If you prefer to write, all of the above staff can be reached here:

**Maine Department of Environmental Protection  
State House Station 17  
Augusta, ME 04333-0017**

Please be sure to visit the DEP website through [www.MaineDEP.com](http://www.MaineDEP.com) keyword: **OBD**